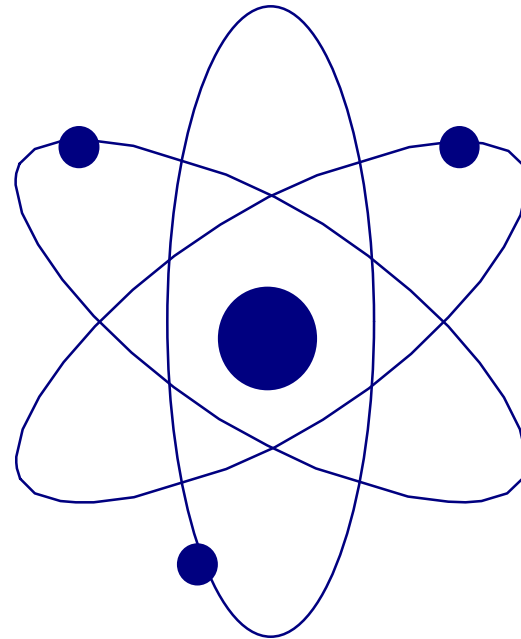


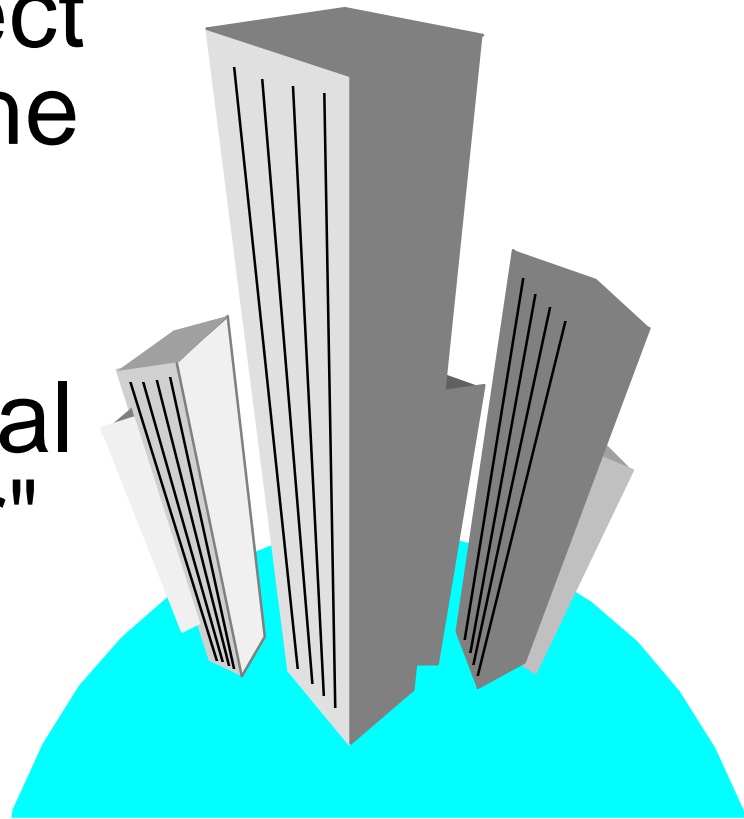
ARPAnet

- University of California
 - Los Angeles
- University of California
 - Santa Barbara
- University of Utah
- Stanford Research Institute



NSFnet

- GOAL----Connect universities to the Internet
- HOW----Regional "supercomputer" centers



Internet

- 4.8 million Host Computers

- 93 Countries

- 25 million Users



Internet



- Electronic Mail
- Transfer Files
- Search for Files
- "Chat"
- Mask Identities

Prior Art

- Definition

What is already known to the public

- Example

Printed publications

Printed Publications

- Authored by Inventor

- Publication in United States or another country



- More than one year prior to inventor's patent application filing date

- Accessible to the public



Printed Publications

- Authored by Another

- Publication in United States or another country



- Prior to inventor's date of invention

- Accessible to the public



Printed Publications

- Authored by Another

- Publication in United States or another country



- After inventor's date of invention but more than one year prior to inventor's patent application filing date

- Accessible to the public



Accessible to the Public

- Paper presented to a group of between 50-500 interested persons and disseminated to at least 6 of them

PRIOR ART?

- 6 copies of brochure sent to friend in order to obtain financial backing

PRIOR ART?

Accessible to the Public

- Doctoral thesis paper deposited and catalogued in public library

PRIOR ART?

- Undergraduate senior thesis paper filed by author's name in shoebox in college department's library

PRIOR ART?

Searching the Internet

- As Pointer to Prior Art

- As Original Source of Prior Art



Internet as Pointer

- Mirrors database provider
- Reference located (and copied from) print media
- Accessible to public as of:
 - Date deposited and catalogued
 - Date went on newstand
 - Date disseminated at conference

Internet as Original Source

- October 12, 1995
 - Examiner locates and downloads document from Internet
- January 3, 1990
 - Downloaded document's creation date: as shown on document
- March 5, 1993
 - Downloaded document's file date: as shown on Internet computer

Internet as Original Source

- QUESTION

As of what date is the downloaded document a prior art reference

- ANSWER

When it became accessible to the public

Internet as Original Source

- Examiner rejects all claims in patent application as obvious in view of downloaded document
- Examiner includes copy of downloaded document with Office Action (w/information of where it was located)
- Applicant's attorney logs on to the Internet to locate the document (per examiner's information)

Scenario #1

- Applicant's attorney locates downloaded document

Q. Is examiner's copy of downloaded document sufficient evidence of existence of prior art?

Q. Is it prior art as of 1/3/90?

Q. Is it prior art as of 3/5/93?

Scenario #2

- Applicant's attorney cannot locate downloaded document (deleted)

Q. Is examiner's copy of downloaded document sufficient evidence of existence of prior art?

Q. Is it prior art as of 1/3/90?

Q. Is it prior art as of 3/5/93?

Scenario #3

- Applicant's attorney locates modified version of downloaded document

Some of information relied on for examiner's rejections is missing

File date is after inventor's patent application filing date

Scenario #3

- Different Versions

Q. Is examiner's copy of downloaded document sufficient evidence of existence of prior art?

Q. Is attorney's copy of downloaded document sufficient evidence of non-existence of prior art?

Scenario #3

- Different Dates

Q. Is examiner's copy of downloaded document prior art as of its file date?

Q. Is attorney's copy of downloaded document sufficient evidence of lack of prior art?

Reverse Scenario

- Re-exam request includes downloaded document as basis for substantial new question of patentability
- Examiner logs on to the Internet to locate the document (per requester's information)

Potential Solutions

- What do we need?

Bottom Line---reliable evidence that document was accessible to the public on a particular date

Ideal---assurances that document is authentic and incapable of repudiation

Potential Solutions

- Digital Signatures and Notaries

Bottom Line---when document (as downloaded) was "filed" on Internet computer

CAVEAT: Master System Clock

Potential Solutions

- One-Way Bulletin Board Systems
 - Locate, access and download files without restriction
 - Load, modify and delete files requires Internet user to "register"

Standards for Internet Prior Art

- Flexible
- Sensible
- Workable

